

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

KRYSTAL MOSHOLDER, et al.,

Plaintiff,

vs. Case No. 5:18cv1325

LOWE'S COMPANIES, INC., et al.,

Defendants.

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Deposition of  
KRYSTAL MOSHOLDER

November 25, 2019

2:18 p.m.

Taken at:

Roetzel & Andress, LPA  
222 South Main Street, Suite 400  
Akron, Ohio  
Job No. CS3790601

Ashanti Edwards, RPR

|                                            | Page 2 |                                                    | Page 4 |
|--------------------------------------------|--------|----------------------------------------------------|--------|
| 1 APPEARANCES:                             |        | 1 INDEX OF EXHIBITS                                |        |
| 2                                          |        | 2 NUMBER            DESCRIPTION                    | MARKED |
| 3 On behalf of the Plaintiffs:             |        | 3 Exhibit 1 Video                                  | 23     |
| 4 Pelini, Campbell & Williams, LLC,        |        | 4 Exhibit 2 Medical record                         | 27     |
| 5 by                                       |        | 5                                                  |        |
| 6 CRAIG M. EOIFF, ESQ.                     |        | 6                                                  |        |
| 7 Bretton Commons                          |        | 7                                                  |        |
| 8 8040 Cleveland Avenue NW, Suite 400      |        | 8                                                  |        |
| 9 North Canton, Ohio 44720                 |        | 9                                                  |        |
| 10 Ceoff@pelini-law.com                    |        | 10                                                 |        |
| 11                                         |        | 11                                                 |        |
| 12 On behalf of The Defendant, Lowe's      |        | 12                                                 |        |
| 13 Companies, Inc.:                        |        | 13                                                 |        |
| 14 Roetzel & Andress, LPA, by              |        | 14                                                 |        |
| 15 NICHOLAS P. RESETAR, ESQ.               |        | 15                                                 |        |
| 16 222 South Main Street, Suite 400        |        | 16                                                 |        |
| 17 Akron, Ohio 44308                       |        | 17                                                 |        |
| 18 (330) 849-6791                          |        | 18                                                 |        |
| 19 Nresetar@ralaw.com                      |        | 19                                                 |        |
| 20 ~ ~ ~ ~                                 |        | 20                                                 |        |
| 21                                         |        | 21                                                 |        |
| 22                                         |        | 22                                                 |        |
| 23                                         |        | 23                                                 |        |
| 24                                         |        | 24                                                 |        |
| 25                                         |        | 25                                                 |        |
|                                            | Page 3 |                                                    | Page 5 |
| 1 TRANSCRIPT INDEX                         | 2      | 1 KRYSTAL MOSHOLDER, of lawful age,                |        |
| 2                                          |        | 2 called for examination, as provided by the       |        |
| 3 APPEARANCES                              | 2      | 3 Federal Rules of Civil Procedure, being by me    |        |
| 4                                          |        | 4 first duly sworn, as hereinafter certified,      |        |
| 5 INDEX OF EXHIBITS                        | 4      | 5 deposed and said as follows:                     |        |
| 6                                          |        | 6 EXAMINATION OF KRYSTAL MOSHOLDER                 |        |
| 7 EXAMINATION OF KRYSTAL MOSHOLDER         |        | 7 BY MR. RESETAR:                                  |        |
| 8 BY MR. RESETAR                           | 5      | 8 Q. Good afternoon.                               |        |
| 9                                          |        | 9 A. Hi. I'm sorry. I wasn't sure what             |        |
| 10 REPORTER'S CERTIFICATE                  | 32     | 10 I was supposed to say.                          |        |
| 11                                         |        | 11 Q. That's okay.                                 |        |
| 12 EXHIBIT CUSTODY                         |        | 12 A. Yes.                                         |        |
| 13 EXHIBITS RETAINED BY THE COURT REPORTER |        | 13 Q. A lot of this process is                     |        |
| 14                                         |        | 14 unnecessarily more awkward than it needs to be. |        |
| 15                                         |        | 15 A. I was made aware.                            |        |
| 16                                         |        | 16 Q. My name is Nick Resetar. I'm                 |        |
| 17                                         |        | 17 Lowe's attorney. You can address me however     |        |
| 18                                         |        | 18 you'd like. I'm incapable of being offended.    |        |
| 19                                         |        | 19 A. Okay.                                        |        |
| 20                                         |        | 20 Q. Most people aren't that way, so I            |        |
| 21                                         |        | 21 want to make sure that I don't offend you. How  |        |
| 22                                         |        | 22 would you prefer that I address you?            |        |
| 23                                         |        | 23 A. First name is fine.                          |        |
| 24                                         |        | 24 Q. Okay. Have you ever been deposed             |        |
| 25                                         |        | 25 before?                                         |        |

2 (Pages 2 - 5)

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| <p style="text-align: right;">Page 6</p> <p>1 A. No.</p> <p>2 Q. We do this speech every time and<br/>3 it's tiresome, but I'll give you the ground<br/>4 rules.</p> <p>5 A. Okay.</p> <p>6 Q. Ashanti is taking down everything<br/>7 that we're saying.</p> <p>8 A. Um-hmm.</p> <p>9 Q. You're doing it right now. One<br/>10 thing we have to do is say yes or no.</p> <p>11 A. Okay.</p> <p>12 Q. Not huh-uh or um-hmm.</p> <p>13 A. Got it.</p> <p>14 Q. I understand. You know, I'm<br/>15 sitting across from you, but it's hard for her<br/>16 to get that down.</p> <p>17 A. Got it.</p> <p>18 Q. The second part is, in normal<br/>19 conversation it's typical, and we do it without<br/>20 even recognizing it, talking over each other.<br/>21 A lot of times you know what I'm going to say<br/>22 and I know what you're going to say, so we<br/>23 don't even give the other person a chance.<br/>24 We're just talking. I will do my best to let<br/>25 you finish talking before I start talking.</p> | <p style="text-align: right;">Page 8</p> <p>1 Q. Okay. Krystal, we're here --</p> <p>2 A. Sorry.</p> <p>3 Q. That's okay.</p> <p>4 A. Okay. Oh. Now it's on silent.</p> <p>5 Q. Okay. We are here today to discuss<br/>6 an incident that occurred at the Brimfield<br/>7 Lowe's on March 15th, 2018. Does that sound<br/>8 right?</p> <p>9 A. Yes.</p> <p>10 Q. And the Brimfield Lowe's, that's on<br/>11 Nicholas Way?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. I'm just going to call that<br/>14 the Brimfield Lowe's.</p> <p>15 A. Okay.</p> <p>16 Q. Let me get a little bit of<br/>17 background first. Do you shop -- prior to<br/>18 March 15th, 2018, did you shop at the Brimfield<br/>19 Lowe's often?</p> <p>20 A. Yes.</p> <p>21 Q. Okay.</p> <p>22 A. Five to six times a week.</p> <p>23 Q. That was my next question. Why so<br/>24 often?</p> <p>25 A. I have my own business where I, I</p>                                                                                                                                                                    |
| <p style="text-align: right;">Page 7</p> <p>1 A. Okay.</p> <p>2 Q. As you can imagine, it's probably<br/>3 hard to write down what two people are saying<br/>4 at once.</p> <p>5 A. Okay.</p> <p>6 Q. The other thing is, if you need to<br/>7 take a break for any reason, take a phone call,<br/>8 go to the bathroom, I don't care. Just tell<br/>9 me. If you want to talk to Craig, that's fine.<br/>10 I don't care.</p> <p>11 MR. RESETAR: Am I missing<br/>12 anything, Craig?</p> <p>13 MR. EOIFF: No. I don't think so.</p> <p>14 Q. Okay. All right. Oh, I am missing<br/>15 something. If I ask you something that doesn't<br/>16 make sense, tell me. I say a lot of things<br/>17 that don't make sense.</p> <p>18 A. Okay.</p> <p>19 Q. I want to make sure that when you<br/>20 answer a question you understand what I'm<br/>21 saying.</p> <p>22 A. Okay.</p> <p>23 Q. If you answer a question, I'll<br/>24 assume you understood it. Is that fair?</p> <p>25 A. Yes.</p>                            | <p style="text-align: right;">Page 9</p> <p>1 guess, build things out of wood materials, so I<br/>2 go there very often to get all of those<br/>3 supplies.</p> <p>4 Q. Okay. Were you part of their Pro<br/>5 program?</p> <p>6 A. No. I have a credit card through<br/>7 them, but not part of the Pro program.</p> <p>8 Q. Okay. I know this is a hard<br/>9 question, but when do you think you first<br/>10 started going to Lowe's regularly, the<br/>11 Brimfield Lowe's?</p> <p>12 A. I think I've been doing this for<br/>13 four years now. At least four years.</p> <p>14 Q. Okay. So is it fair for me to say<br/>15 that like since 2016, 2015?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. I guess -- really simple.<br/>18 Were you aware that Lowe's -- as of March 15th,<br/>19 2018, were you aware that Lowe's allowed<br/>20 customers to bring pets in the store?</p> <p>21 A. Yes. I can recall the sticker on<br/>22 the doors, the sliding doors.</p> <p>23 Q. Do you recall what that sticker<br/>24 says?</p> <p>25 A. I can picture a dog on it and it</p> |

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| <p style="text-align: right;">Page 10</p> <p>1 says -- I mean, not verbatim, but we are pet<br/>2 friendly.</p> <p>3 Q. Is it fair to assume you saw that<br/>4 sticker before March 15th, 2018?</p> <p>5 A. Yes. Yes.</p> <p>6 Q. Okay. Is it fair to assume you saw<br/>7 dogs in the Brimfield Lowe's prior to March<br/>8 15th, 2018?</p> <p>9 A. Yes.</p> <p>10 Q. Would you say it's common or<br/>11 uncommon to see dogs in the store prior to<br/>12 March 15th, 2018?</p> <p>13 A. Common.</p> <p>14 Q. Okay. Did you ever see the same<br/>15 dogs on multiple occasions in that store prior?</p> <p>16 A. No.</p> <p>17 Q. Okay. Did you own any dogs on<br/>18 March 15th, 2018?</p> <p>19 A. That's a question mark. I could<br/>20 find out right now.</p> <p>21 Q. You could or couldn't?</p> <p>22 A. I could find out right now on my<br/>23 Instagram. Is that what you're asking me, if<br/>24 we had a dog when that happened?</p> <p>25 Q. Yes.</p>            | <p style="text-align: right;">Page 12</p> <p>1 Q. Okay. And I saw a post on<br/>2 Instagram from March 2018 of him.</p> <p>3 A. Yeah.</p> <p>4 Q. Looks like by a swing set.</p> <p>5 A. Okay.</p> <p>6 Q. If that was taken around that time,<br/>7 would you dispute that you had Jack in March<br/>8 2018?</p> <p>9 A. No.</p> <p>10 Q. And that's all I wanted.</p> <p>11 A. Okay.</p> <p>12 Q. Prior to March 15th, 2018, had you<br/>13 ever been bitten by a dog before?</p> <p>14 A. No.</p> <p>15 Q. You're luckier than I am. I'll<br/>16 probably get bitten tonight when I get home. I<br/>17 get bitten probably once a week. I have a<br/>18 yellow lab.</p> <p>19 A. Oh. Well, I mean playfully. Not<br/>20 like this.</p> <p>21 Q. And that's where I was going. As a<br/>22 dog owner, you've had teeth on you?</p> <p>23 A. Yeah. Puppy bites, yeah.</p> <p>24 Q. And you would consider the dog<br/>25 playing, not trying to physically harm you?</p>                                                                                                |
| <p style="text-align: right;">Page 11</p> <p>1 A. Yes. And I was asked by the other<br/>2 Craig probably a year after this all happened<br/>3 and my husband and I -- my husband was with me<br/>4 and he -- we both said, we're not sure, we<br/>5 don't think so. That was our --</p> <p>6 Q. And I'm not trying to -- certainly,<br/>7 two things.</p> <p>8 A. Yes.</p> <p>9 Q. I'll editorialize a little bit.<br/>10 I'm not trying to drum up any old feelings,<br/>11 number one.</p> <p>12 A. Right.</p> <p>13 Q. Number two, I'm not trying to pull<br/>14 the rug out from under you.</p> <p>15 A. Yeah.</p> <p>16 Q. I just wanted to know --</p> <p>17 A. And I'm just telling -- being,<br/>18 like, honest with you. We -- I have not looked<br/>19 into it.</p> <p>20 Q. And I --</p> <p>21 A. I didn't know that mattered. So I<br/>22 guess I wasn't too concerned about it.</p> <p>23 Q. It may not matter. Was your dog's<br/>24 name Jack?</p> <p>25 A. Yes.</p> | <p style="text-align: right;">Page 13</p> <p>1 A. Right.</p> <p>2 Q. Okay. Tell me what the term<br/>3 vicious, as it pertains to dogs, means to you.<br/>4 Let me ask this a better way. In your opinion,<br/>5 what is a vicious dog?</p> <p>6 MR. EOIFF: Objection. Just to the<br/>7 extent that it might seek a legal conclusion<br/>8 and, obviously, this witness would not be<br/>9 qualified to answer such a question to the<br/>10 extent that you're asking for her personal<br/>11 impression.</p> <p>12 MR. RESETAR: I would like her<br/>13 opinion of what -- not a legal opinion.</p> <p>14 Q. To you, what is a vicious dog?</p> <p>15 MR. EOIFF: Sure.</p> <p>16 A. A dog, if you were to approach it<br/>17 friendly, would bite you or come at you in a<br/>18 way that, I guess, a friendly dog wouldn't.</p> <p>19 Q. How do you know that a dog may or<br/>20 may not be vicious, you, prior to approaching<br/>21 it?</p> <p>22 A. You have no idea.</p> <p>23 Q. Okay.</p> <p>24 A. If I don't know the dog, you -- you<br/>25 don't know.</p> |

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| <p style="text-align: right;">Page 14</p> <p>1 Q. Is it fair to say that dogs you're<br/>2 not familiar with can be unpredictable?<br/>3 A. Yes.<br/>4 Q. Is it fair to say that some -- that<br/>5 there could be some characteristics to identify<br/>6 a vicious dog? For example, aggressive<br/>7 barking?<br/>8 A. Yes.<br/>9 Q. Perhaps showing its teeth?<br/>10 A. Yes.<br/>11 Q. Perhaps trying to get away from its<br/>12 handler to lunge at somebody?<br/>13 A. Yes.<br/>14 Q. Okay. Had you ever encountered a<br/>15 vicious dog prior to March 15th, 2018?<br/>16 A. I cannot say that I have.<br/>17 Q. Okay. At the Brimfield Lowe's<br/>18 prior to March 15th, 2018 -- so I can stop<br/>19 saying March 15th, 2018, can I just say the<br/>20 date in question, or something along those<br/>21 lines?<br/>22 A. Yes.<br/>23 Q. Prior to the date in question had<br/>24 you ever petted any of the dogs at the<br/>25 Brimfield Lowe's?</p>                                                                                                                                                                                                                                                                                    | <p style="text-align: right;">Page 16</p> <p>1 standing -- I mean, if I could draw a picture<br/>2 it would make more sense. But the dog and the<br/>3 owner was standing right by the spray paint,<br/>4 probably enough to fit one other person, maybe<br/>5 two people, to get to the spray paint. So I'm<br/>6 walking this way. They're here, right by where<br/>7 I need to go. So the one lady, the employee<br/>8 that you guys just talked to, was bent down,<br/>9 hi, dog, love you, you're so cute, blah, blah,<br/>10 blah, super excited to see this dog. So I just<br/>11 go around the people this way. As I'm going --<br/>12 I don't even know how to say it because I don't<br/>13 know for sure. But I want to say the dog like<br/>14 turned its head to like say hi to me and then I<br/>15 just literally like tried to like brush the top<br/>16 of its head or nose, or whatever it was, and<br/>17 that's when it lunged at me and got my leg.<br/>18 Q. Okay.<br/>19 A. Should I keep going?<br/>20 Q. Please.<br/>21 A. Okay. So that happened. Took me<br/>22 completely off guard. Scared the crap out of<br/>23 me. My adrenaline is going, my blood pressure.<br/>24 I'm like, what the heck just happened. I want<br/>25 to say the owner -- I know for sure the owner</p>                                                                                      |
| <p style="text-align: right;">Page 15</p> <p>1 A. No, I have not.<br/>2 Q. Okay. I'm going to make this real<br/>3 easy. Tell me what happened on the date in<br/>4 question.<br/>5 A. How much of it?<br/>6 Q. How about this. From the time you<br/>7 pulled up to the parking lot to the time you<br/>8 left the parking lot.<br/>9 A. Okay. Pulled up. I had a handful<br/>10 of materials I needed to buy, some being lumber<br/>11 I'm pretty sure. Then, I needed to get some<br/>12 spray paint and I needed to get some cast iron<br/>13 bars and materials to make something. So I<br/>14 always start at the end where the lumber is.<br/>15 That's where I park. So I parked on the lumber<br/>16 side, go in lumber side, get what I need in the<br/>17 lumber. And then I needed to go down to get<br/>18 the spray paint, which is on the opposite side<br/>19 of the building. I walked -- I leave my cart.<br/>20 It already has the lumber in it. Then, I<br/>21 walked down to get -- I think I got a couple<br/>22 handles, too. Then, I went down to get the<br/>23 spray paint and there was -- which I've already<br/>24 seen this dog once in the store on the other<br/>25 side where I was. I went to go -- the dog was</p> | <p style="text-align: right;">Page 17</p> <p>1 pulled the leash back. So I'm assuming he saw.<br/>2 I can't say for sure if he did because I don't<br/>3 know if he said anything. I may have said that<br/>4 he did. I can't tell you -- it's almost been<br/>5 two years. I can't remember now if he actually<br/>6 said anything or not. Along with the employee.<br/>7 I don't think she did. And I don't even know<br/>8 if she even really noticed or acknowledged that<br/>9 it happened. So I just leave. I don't even<br/>10 grab the spray paint. I then realize I still<br/>11 need to get those cast iron bars, which are on<br/>12 that side. So I go over there and grab them.<br/>13 Come back -- you know what, I take that back.<br/>14 Sorry. I forgot that when I went to go and<br/>15 actually try to grab the spray paint the dog<br/>16 lunged at me again, but did not get me. So<br/>17 after he bit me I kind of walk to go get the<br/>18 other things and I just try to like go back and<br/>19 reach and get the spray paint and the dog<br/>20 lunged at me and I'm like, I'm just getting out<br/>21 of here. So that's when I went and got the<br/>22 cast iron bars and then just went back to my<br/>23 cart that was already loaded and decided at<br/>24 that point that I just wanted to get out of<br/>25 there. I already had my materials loaded up.</p> |

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| <p style="text-align: right;">Page 18</p> <p>1 I'm like, I'll just, you know, pay for what I<br/>2 need to pay and get out of there. And that's<br/>3 when I checked out.<br/>4 Q. Okay. Did you buy the spray paint<br/>5 or not?<br/>6 A. No. I never got the spray paint.<br/>7 Q. Okay.<br/>8 A. And that's on the video.<br/>9 Q. Let me back through that. You said<br/>10 you saw the dog in the store before. Did you<br/>11 mean this day or on a different day?<br/>12 A. This day. That -- yeah. When I<br/>13 was doing my prior shopping.<br/>14 Q. Okay. Can you describe what the<br/>15 owner looked like?<br/>16 A. Like I said, it's been two years.<br/>17 I want to say upper 20s, early 30s. Male,<br/>18 medium height, 5'10-ish height, darker hair.<br/>19 That's really -- wearing a sweatshirt, a gray<br/>20 sweatshirt, I believe.<br/>21 Q. Can you physically describe the dog<br/>22 for me?<br/>23 A. Medium-sized dog. Not a large dog.<br/>24 Darker gray with some white spotting. To me it<br/>25 looked like some kind of Pit Bull dog mix.</p> | <p style="text-align: right;">Page 20</p> <p>1 Q. I have a male dog, so my default is<br/>2 to call it a him.<br/>3 A. Yeah.<br/>4 Q. When you saw the employee petting<br/>5 the dog did the dog appear friendly?<br/>6 A. Yes.<br/>7 Q. Okay. And when you came up to them<br/>8 how close were you to the employee?<br/>9 A. I walked behind her. She's knelt<br/>10 down, I walked behind her. Close, I guess.<br/>11 Q. Okay. And you said you put your<br/>12 hand out towards its head?<br/>13 A. Just to like touch the nose or<br/>14 whatever. Head, whatever.<br/>15 Q. Did you end up touching the head?<br/>16 A. I don't think so. I don't know for<br/>17 sure.<br/>18 Q. Okay. And then how far -- or how<br/>19 much time from the time you stuck your hand out<br/>20 did the dog --<br/>21 A. It was like almost --<br/>22 Q. Instantaneous?<br/>23 A. Um-hmm.<br/>24 Q. And did you say anything to the<br/>25 owner?</p>                                                                                                                                                                   |
| <p style="text-align: right;">Page 19</p> <p>1 Q. In your opinion, how old do you<br/>2 think that dog was?<br/>3 A. A year, maybe.<br/>4 Q. Would you call it a puppy?<br/>5 A. Yeah.<br/>6 Q. Okay. When you walked into the<br/>7 aisle you saw the employee petting the dog; is<br/>8 that correct?<br/>9 A. Yes.<br/>10 Q. Is that the woman you just saw now<br/>11 leave the building?<br/>12 A. Oh, I didn't even pay attention.<br/>13 Q. Oh. I thought you did say that.<br/>14 Okay.<br/>15 A. I just said -- I saw a lady leaving<br/>16 with someone, so -- I didn't see what she<br/>17 looked like, but --<br/>18 Q. Okay. Was she like really close to<br/>19 the dog petting him?<br/>20 A. Yeah. She was knelt down, from<br/>21 what I can remember, and like petting the head<br/>22 and stuff.<br/>23 Q. Okay. And I said him. I don't<br/>24 know if the dog is a male or female.<br/>25 A. I don't know either.</p>                                                                                                                                           | <p style="text-align: right;">Page 21</p> <p>1 A. No, I did not.<br/>2 Q. Did the owner say anything to you?<br/>3 A. I can't remember.<br/>4 Q. Did the employee say anything to<br/>5 you?<br/>6 A. I cannot remember.<br/>7 Q. Did you tell the employee that the<br/>8 dog had bit you?<br/>9 A. No. No one at the store knew.<br/>10 Q. Okay. And that's my next question.<br/>11 Is there -- and I'm not trying to come down on<br/>12 you. Is there any reason you didn't tell<br/>13 anybody at the store?<br/>14 A. So I was wearing a pair of black<br/>15 jeans, actual jeans, and I did not know at the<br/>16 time that the dog bit through the jeans and<br/>17 actually got my skin. I did not see any blood,<br/>18 didn't see any markings, so -- had I known<br/>19 that, if I were wearing a pair of shorts, I<br/>20 would have for sure said something. I just<br/>21 didn't know it went through my jeans. So I<br/>22 didn't feel like I had any reason to say, so<br/>23 that's why.<br/>24 Q. Okay. And just so I can be very<br/>25 clear, you did see the dog before it bit you?</p> |

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| <p style="text-align: right;">Page 22</p> <p>1 A. Yes.<br/>     2 Q. And you did attempt to interact<br/>     3 with the dog before it bit you?<br/>     4 A. Yes.<br/>     5 Q. When you approached that dog did it<br/>     6 give you any behavior that you thought -- led<br/>     7 you to believe it would bite you?<br/>     8 A. No.<br/>     9 Q. The things we talked about earlier,<br/>     10 about a vicious dog, the gnashing the teeth,<br/>     11 the barking, trying to get away from its owner,<br/>     12 was this dog exhibiting any behavior that you<br/>     13 would describe as vicious?<br/>     14 A. No.<br/>     15 Q. With that being said, you told me<br/>     16 earlier that dogs are unpredictable, would you<br/>     17 chalk this up to being unpredictable, that this<br/>     18 dog bit you?<br/>     19 A. Yes.<br/>     20 Q. But you were aware when you walked<br/>     21 toward it that it was a possibility you could<br/>     22 be bitten, albeit remote?<br/>     23 A. Yes.<br/>     24 Q. Okay. The dog wasn't hidden from<br/>     25 your view? You knew it was there?</p>  | <p style="text-align: right;">Page 24</p> <p>1 have one question for you after you watch it.<br/>     2 Is this you?<br/>     3 A. Yes.<br/>     4 Q. That is you?<br/>     5 A. Yes.<br/>     6 Q. And those are the black jeans you<br/>     7 referenced?<br/>     8 A. Yes.<br/>     9 Q. And you're wearing -- it looks like<br/>     10 a gray --<br/>     11 A. North Face jacket.<br/>     12 Q. North Face jacket. Okay. And a<br/>     13 white tassel cap?<br/>     14 A. Yeah.<br/>     15 Q. Or a light-colored cap?<br/>     16 A. Yes.<br/>     17 Q. Okay. That was my only question.<br/>     18 Then, this next question is going to be -- I'll<br/>     19 preview it for you. Is this the dog? Let<br/>     20 me --<br/>     21 A. Yes.<br/>     22 Q. That's the dog?<br/>     23 A. Yes.<br/>     24 Q. And we lawyers, we're the king of<br/>     25 asking dumb questions. Is that the owner?</p>                                                                                                                                                                                                                                                                                                                            |
| <p style="text-align: right;">Page 23</p> <p>1 A. Yep. He was there, yes.<br/>     2 Q. Okay. I want to show you the<br/>     3 video. I'm going to mark this as Exhibit 1.<br/>     4 - - - - -<br/>     5 (Thereupon, Deposition Exhibit 1,<br/>     6 video, was marked for purposes of<br/>     7 identification.)<br/>     8 - - - - -<br/>     9 MR. RESETAR: Craig, we talked<br/>     10 about this. I have a flash drive. It's got<br/>     11 every single video clip on it.<br/>     12 MR. EOUFF: Right.<br/>     13 MR. RESETAR: I can put it in and<br/>     14 show you. Or you can -- you're happy to look<br/>     15 at it if you'd like.<br/>     16 MR. EOUFF: Yeah. I'll do that.<br/>     17 That's fine.<br/>     18 Q. I'm going to direct you to the<br/>     19 screen. These will be very simple questions,<br/>     20 Krystal. Bear with me.<br/>     21 A. Um-hmm.<br/>     22 Q. Okay. I'll represent to you that<br/>     23 this is a video clip from the Brimfield Lowe's<br/>     24 on the date in question. I will also represent<br/>     25 to you this is when you came into the store. I</p> | <p style="text-align: right;">Page 25</p> <p>1 A. Yes.<br/>     2 Q. Okay. And then I did have one<br/>     3 more. No. I'm not going to ask that question.<br/>     4 Okay. So we've just established that is you on<br/>     5 the video and that is the dog?<br/>     6 A. Um-hmm.<br/>     7 Q. What happened after you left the<br/>     8 store?<br/>     9 A. I went home and I called my husband<br/>     10 to let him know and then he, you know, told me<br/>     11 that I should call -- I was going to anyway<br/>     12 because after I -- so I should say, I went<br/>     13 home, checked where I got bit and that's when I<br/>     14 saw that I was bleeding and there were teeth<br/>     15 marks. And that's when I took the picture.<br/>     16 Then, I called my husband and then I called<br/>     17 Lowe's.<br/>     18 Q. So you called Lowe's or your<br/>     19 husband called Lowe's?<br/>     20 A. No. I called Lowe's. I'm pretty<br/>     21 sure my husband did after I tried to talk to<br/>     22 them and they weren't very helpful.<br/>     23 Q. Do you remember who you talked to?<br/>     24 A. I know it was a lady and I could --<br/>     25 I don't know her name, but I know from voices,</p> |

1 and I go there all the time, that I could pick  
 2 her out and I could tell you if we were there  
 3 in person, but I can't say that for sure. So  
 4 no, I don't know any names. I do not remember  
 5 any names.

6 Q. Is it fair to say that the reason  
 7 you reported this is because it had broken your  
 8 skin?

9 A. Well, honestly, yes. There was  
 10 another reason that I just -- I wanted to make  
 11 sure that that dog wasn't going to return to  
 12 that store and do this again to a kid or  
 13 someone else, so --

14 Q. Did you see that dog interact with  
 15 anybody else in the store after this incident?

16 A. No.

17 MR. RESETAR: Craig, did you look  
 18 at that?

19 MR. EOIFF: What's that? Oh, yeah.  
 20 This?

21 MR. RESETAR: Yeah.

22 MR. EOIFF: Yeah. That appears to  
 23 be everything you gave me.

24 MR. RESETAR: Okay. I haven't even  
 25 looked at it myself.

1 MR. EOIFF: Okay. Just don't say  
 2 anything about anything that you and I have  
 3 discussed.

4 THE WITNESS: Okay.

5 Q. Do you see the part with it says  
 6 HPI comments toward the bottom of the page?

7 A. Yes.

8 Q. Can you just read that and tell me  
 9 if you disagree with anything in that --

10 A. Out loud or --

11 Q. To yourself.

12 A. Yeah. I mean, there's the one  
 13 thing they left out, but everything in here is  
 14 correct.

15 Q. What did they leave out?

16 A. When I went to go try and get the  
 17 spray paint again the dog lunged at me.

18 Q. Okay. And you told them that?

19 A. I'm not sure.

20 Q. Okay.

21 A. I didn't know that they needed to  
 22 know that.

23 Q. Fair enough.

24 A. Yeah.

25 Q. That was the reason I asked.

1 Q. Okay. Krystal, I'll hand you what  
 2 we'll mark as Exhibit 2.

3 - - - - -

4 (Thereupon, Deposition Exhibit 2,  
 5 medical record, was marked for  
 6 purposes of identification.)

7 - - - - -

8 MR. RESETAR: Craig, I didn't make  
 9 copies of this. I cannot put the whole record  
 10 in. It's one of --

11 MR. EOIFF: It's fine.

12 MR. RESETAR: Is it okay if I just  
 13 use this one sheet? I just want to go over the  
 14 narrative with her.

15 MR. EOIFF: That's fine.

16 Q. Krystal, I'm handing you what we'll  
 17 mark as Lowe's Exhibit 2. I'll represent to  
 18 you, and you've probably never seen this, that  
 19 this is one of your medical records from the  
 20 Cleveland Clinic.

21 A. I may have seen it with him at the  
 22 last meeting.

23 MR. EOIFF: You don't want to --

24 MR. RESETAR: I'm not going to ask  
 25 about it.

1 A. Yeah.

2 MR. RESETAR: Craig, give me a  
 3 second. We might be done.

4 MR. EOIFF: Okay.

5 MR. RESETAR: I just want to  
 6 collect my thoughts and see if there's anything  
 7 else we're missing.

8 MR. EOIFF: Okay.

9 MR. RESETAR: Off the record.  
 10 (Off the record.)

11 MR. RESETAR: Craig, as we  
 12 discussed, are you comfortable with just  
 13 leaving this open solely with regards to  
 14 damages?

15 MR. EOIFF: Yes, sir. Yeah.

16 Absolutely.

17 MR. RESETAR: Okay. Then, as far  
 18 as today goes, I have no further questions.

19 MR. EOIFF: Okay. Krystal, although  
 20 we've left the deposition potentially open for  
 21 later questioning about damages pursuant to  
 22 stipulation of counsel, you do have the right  
 23 to review the transcript. Not to change your  
 24 testimony, but to at least review it for  
 25 accuracy. Although, I will tell you, given the



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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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DEPOSITION  
EXHIBIT

PENGARD 800-631-6989

Re  
Mosholder/Hugh

This exhibit contains digital media which can be accessed with the below link and password:

3790601

Password: o6gHf4Xw

<https://veritext.egnyte.com/f/ig40iLTK29>



AKRON GENERAL MEDICAL Mosholder, Krystal  
CENTER MRN: 1134040, DOB: 8/28/1986, Sex: F  
1 AKRON GENERAL AVE Adm: 3/15/2018, D/C: 3/15/2018  
AKRON OH 44307-2432

ED Medication Administration (continued)

| Date/Time | Order                     | Dose | Route | Action | Action by        | Comments |
|-----------|---------------------------|------|-------|--------|------------------|----------|
| 1339      | 875 mg tab(s) (AUGMENTIN) | mg   |       |        | Doolittle,<br>RN |          |

Current Discharge Medication List

Medication list as of: 3/15/2018 1:54 PM

ED Immunization Screening from 3/15/18 1116 to 3/15/18 14:16:00

| Date and Time | Last Tetanus?        | Up to Date on Immunizations? | Pneumovax Vaccine? | Entered By |
|---------------|----------------------|------------------------------|--------------------|------------|
| 03/15/18 1123 | More Than Five Years | --                           | --                 | CW         |

ED Provider Notes - ED Provider Notes

ED Provider Notes by Erica R (Pa) Domaleczny, PA at 3/15/2018 11:30 AM

Author: Erica R (Pa) Domaleczny, Service: Emergency Medicine Author Type: Physician Assistant  
PA  
Date of Service: 3/15/2018 Filed: 3/15/2018 2:21 PM Status: Signed  
Editor: Erica R (Pa) Domaleczny, PA (Physician Assistant)

ED Provider Note

**Patient Name:** Krystal Mosholder

**MRN:** 1134040

**SERVICE DATE:** 3/15/18

History

Patient presents with:

Dog Bite: pt sts was at lowes today, got bit by unknown dog. R hip, pt sts was bleeding, swollen.

**HPI Comments:** 31-year-old female with past medical history of meningitis and breast augmentation presents to the emergency Department with complaints of dog bite to the right hip that occurred around 10 AM this morning while at Lowe's. She was petting a puppy pitbull mix. As she turned to walk away she states the dog growled at her and bit at her hip. She states she does not believe that the owner even noticed. She did not stop the owner to speak with the owner after this incident. She states she noticed that there was some blood to the wound when she got home. She initially did not think he broke skin. She denies fevers/chills and significant bleeding. She expresses that she would like to receive the rabies vaccine series due to the fact that she has no way of monitoring this dog and is unaware of its vaccination status.

History provided by: Patient and medical records

Language interpreter used: No

PAST MEDICAL HISTORY

Diagnosis

- H/O breast augmentation  
*bilateral submuscular*

Date

Printed on 11/20/19 10:45 AM

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